

## **General Terms and Conditions of Purchase for Deliveries and Services (GTCP) of VENSYS Energy AG**

### **1. General, Scope of Application**

1.1 Unless otherwise agreed in writing between VENSYS Energy AG, Im Langental 6, 66539 Neunkirchen, Deutschland (hereinafter "VENSYS") and the CONTRACTOR, the following GTCP apply to all deliveries and services commissioned by VENSYS.

1.2 By submitting an offer, by confirming an order, by accepting or executing an order, the CONTRACTOR accepts these GTCS. Any General Terms and Conditions of the CONTRACTOR deviating therefrom shall only apply if and to the extent that they have been expressly accepted in writing. This also applies if the CONTRACTOR refers to its general terms and conditions; an objection by VENSYS is not required in this case.

1.3 All correspondence from the CONTRACTOR regarding a purchase order shall contain the following information:

- a) Order number and date
- b) Material name, product number, position number, weight and customs tariff number
- c) the contact person named in the order

If any aforementioned information is missing, we are not be responsible for any delays in processing.

### **2. Offer, Collateral Agreements, Inadmissible Advertising**

2.1 The CONTRACTOR shall provide VENSYS with a binding offer free of charge within two weeks, unless a different deadline was specified in the inquiry.

2.2 In the offer, the CONTRACTOR shall adhere to the inquiry with regard to quantity, quality and execution and, in case of a deviation, shall expressly point this out.

2.3 The CONTRACTOR is principally bound by its offer for 30 days, unless a longer binding period is agreed.

2.4 The order must be in writing to be binding. Verbal agreements are only valid if VENSYS confirms them in writing.

2.5 Orders must be confirmed in writing by the CONTRACTOR immediately. If the CONTRACTOR does not accept the order in writing within 10 working days after receipt, VENSYS is no longer bound to the order.

2.6 VENSYS can demand changes to the delivery item or service even after conclusion of the contract, insofar as this is reasonable for the CONTRACTOR. Changes and their effects on prices, delivery time or other conditions must be made in writing in accordance with these GTCP.

2.7 The use of orders for reference and/or advertising purposes requires the prior written consent of VENSYS.

### **3. Retention of Title - Provisions**

3.1 Deliveries by the CONTRACTOR are made without reservation of title.

3.2 Materials, raw materials, tools and machines provided by VENSYS remain the property of VENSYS and must be stored by the CONTRACTOR free of charge separately from the property of the CONTRACTOR or third parties, marked as the property of VENSYS, properly stored and managed.

3.3 Any processing, mixing or combining of materials and raw materials provided by the CONTRACTOR is carried out for VENSYS. If the materials/raw materials provided by VENSYS are processed or combined or mixed with other movable objects not belonging to VENSYS, VENSYS acquires co-ownership of the new object in proportion to the value of the materials/raw materials provided by VENSYS (purchase price plus VAT) at the time of processing, mixing or combining.

3.4 The CONTRACTOR undertakes, in the event of seizure of goods owned by VENSYS, to inform the seizing party of this and to inform VENSYS immediately in writing.

### **4. Prices - Terms of Payment - Set-Off - Assignment**

4.1 The agreed prices and rates of remuneration are fixed prices excluding statutory VAT, but including all costs incurred in the proper, timely provision of the deliveries/services, such as planning, preparation, material, tool, transport, storage, packaging, wage, ancillary wage costs, wages and salaries, customs duties, levies, taxes and fees. An adjustment of the agreed prices and rates of remuneration as well as an assertion of additional costs can only be agreed by way of an express contractual adjustment.

4.2 The statutory turnover tax must be shown separately in all invoices.

4.3 The CONTRACTOR is obliged to observe customs duties and the national tax regulations of the respective (service) place of performance and internationally valid tax regulations. VENSYS is entitled to withhold customs duties and taxes from the payments unless the CONTRACTOR provides proof that the customs duties and taxes have already been paid.

4.4 The CONTRACTOR has to send to VENSYS at the above-mentioned business address or at the e-mail address [rechnungen@vensys.de](mailto:rechnungen@vensys.de) proper invoices in accordance with the legal requirements, which have to contain at least the following information:

- a) Invoice number
- b) Invoice recipient
- c) Order number and date

- d) Material name, product number, position number, weight and customs tariff number
- e) Delivery date, delivery note number
- f) Individual and total price
- g) the contact person named in the order
- h) Project number/designation (if specified in the order)
- i) the tax number of the CONTRACTOR

4.5 In the event of non-compliance with the provisions on invoicing, VENSYS may reject the invoices concerned as not auditable and the CONTRACTOR cannot make any claims against VENSYS for late payment or additional costs.

4.6 Payments do not imply acceptance of the deliveries/services as being in accordance with the contract.

4.7 In the event of defective or incomplete delivery/service, VENSYS is entitled to withhold payments from the business relationship to a reasonable extent until proper (subsequent) fulfilment by the CONTRACTOR. Reasonable is usually twice the costs necessary for the removal of the defect or the completion of the delivery/service.

4.8 In the absence of other agreements, payments are made within 30 days. In the case of payment within 14 days, VENSYS is entitled to a 3% discount. The payment period begins as soon as the delivery/service has been provided in accordance with the contract and VENSYS have received the properly issued invoice. If documentation, test certificates, works certificates or similar documents are part of the scope of performance, the payment period only begins after the handover of these documents to VENSYS.

4.9 Payments are made by bank transfer. Payment is deemed to have been made on time if the bank transfer has been commissioned on the due date.

4.10 The assignment of individual claims, demands, rights and/or obligations from the contract concluded with VENSYS as well as the transfer of the contractual legal position as a whole require the prior written consent of VENSYS. An offence against sentence 1 entitles VENSYS to withdraw completely or partly from the contract as well as to require compensation.

## 5. Delivery and performance time, delays

5.1 The agreed delivery and performance dates are binding. Early deliveries, services and/or partial deliveries and partial services require the prior express written consent of VENSYS. Decisive for compliance with the deadline is the receipt of the defect-free goods at the place of receipt or use named by VENSYS or the acceptance of the service by VENSYS. If delays are apparent or to be expected, the CONTRACTOR must immediately notify VENSYS of this in writing, stating the reasons and the presumed duration.

5.2 If the CONTRACTOR is in default for reasons for which he is responsible, VENSYS is entitled to claim a contractual penalty of 0.5% for each commenced working day of delay, up to a maximum of 5% of the total contract sum (net); all other default rights and claims remain unaffected. VENSYS is entitled to claim the contractual penalty in addition to the performance and as a minimum amount of damages owed by the CONTRACTOR according to the statutory provisions; the assertion of further damages remains unaffected. Insofar as damages are claimed due to default on the part of the CONTRACTOR, any contractual penalty already paid by the CONTRACTOR shall be set off against this. A forfeited contractual penalty remains unaffected by a termination of the contract and by the agreement of new dates/deadlines.

5.3 The unconditional acceptance/acceptance of a delayed delivery/service does not include a waiver of secondary and compensation claims. The reservation of the assertion of a contractual penalty may be declared until payment of the final invoice.

5.4 VENSYS may also, and without prejudice to its other rights, after the expiry of a reasonable period of grace set by it or, if the delivery / service is no longer of interest to it as a result of the delay, in the event of imminent danger, in order to avoid further damage or in the event of urgency, have the delivery / service not yet performed by the CONTRACTOR carried out by a third party at the CONTRACTOR's expense.

## 6. Transfer of Risk - Shipping

6.1 The CONTRACTOR bears the risk of accidental loss and accidental deterioration.

6.2 The PURCHASER shall properly pack and dispatch its deliveries in compliance with the agreed/applicable packaging and shipping regulations and insure them to the extent customary in the market. Packaging materials are to be used only to the extent necessary to achieve this objective. Only environmentally friendly packaging materials shall be used. Additional costs due to non-compliance with packaging/shipping regulations are to be borne by the CONTRACTOR.

6.3 VENSYS concludes transport and traffic contracts exclusively in accordance with the German legal provisions, in particular §§ 407 ff HGB (German Commercial Code), as well as the international transport law agreements and international legal provisions for transports, insofar as these are compulsorily applicable in the respective case.

## 7 Warranty, liability (deliveries, services)

7.1 The CONTRACTOR must provide VENSYS with the delivery free of material defects and defects of title. In particular, he must guarantee to VENSYS that his deliveries and services comply with the latest state of the art and the contractually agreed properties and standards, as well as the standards, regulations and norms (including safety, occupational safety and accident prevention

regulations) existing in the country of the CONTRACTOR and in the country of destination.

7.2 The delivery is checked for quality and completeness at VENSYS after receipt to the extent that is reasonable and technically possible. Notifications of defects are on time if they are received by the CONTRACTOR within ten working days by letter, fax, e-mail or telephone. The period for the notification of defects begins with the point in time at which VENSYS - or in the case of drop shipment their customer - has or should have discovered the defect.

7.3 If there is a material defect, VENSYS is entitled to the statutory rights of its choice. A rectification by the CONTRACTOR is deemed to have failed after the second unsuccessful attempt. VENSYS is also entitled to the right of withdrawal if the relevant breach of duty by the CONTRACTOR is only insignificant.

7.4 In all other respects, the CONTRACTOR is liable in accordance with the statutory warranty provisions.

7.5 If VENSYS is entitled to remedy the defect itself in accordance with clause 7.4 above, clause 5.4 applies with regard to the obligations of the CONTRACTOR. All costs incurred in connection with the rectification of defects, in particular for dismantling, assembly, travel, freight, packaging, insurance, customs duties and other public charges, tests and technical inspections are to be borne by the CONTRACTOR.

7.6 Unless otherwise agreed in writing, the Client's claims for defects become statute-barred after 36 months, calculated from the transfer of risk. If the service is intended for a building and has caused its defectiveness, the limitation period is 5 years. Longer statutory limitation periods remain unaffected.

7.7 Insofar as and as long as services cannot be used in accordance with the contract as a result of subsequent performance work by the CONTRACTOR, their warranty period is extended by the duration of this interruption. For services repaired and/or replaced under warranty, the limitation period begins anew with the acceptance of the repair or the replacement service.

## **8. Product Liability, Exemption, Insurance Cover**

8.1 As far as the CONTRACTOR is responsible for a product defect or the violation of legal / official safety regulations, he has to indemnify VENSYS from possible claims for damages of third parties on first written demand. In addition, VENSYS is entitled to reimbursement of all expenses incurred in connection with a recall action; VENSYS will inform the CONTRACTOR in advance of the type and scope of recall actions, insofar as this is possible and reasonable. Further legal claims remain reserved.

8.2 The same applies insofar as product defects are attributable to services provided by subcontractors or sub-suppliers of the CONTRACTOR.

8.3 The CONTRACTOR is obliged to keep himself sufficiently insured against product liability and to

prove this to VENSYS in writing at any time upon request, in particular by written confirmation of the insurer of the CONTRACTOR.

## **9. Secrecy**

9.1 Information to be treated as confidential is the information expressly designated as confidential by the contracting party providing the information and such information whose confidentiality clearly results from the circumstances of the transfer.

No information is to be treated as confidential insofar as the contracting party receiving the information proves that they

- were known to him or generally accessible before the date of receipt;
- were known or generally accessible to the public before the date of receipt;
- became known or generally accessible to the public after the date of receipt without the information-receiving contracting party being responsible for this.

9.2 The contracting parties will maintain confidentiality about all confidential information that has come to their knowledge within the scope of this contractual relationship and will only disclose it to third parties who have themselves undertaken to maintain confidentiality and only to the extent that this is necessary for the implementation and execution of this contract.

## **10. Property Rights**

The CONTRACTOR is liable for the fact that during the execution of the contract as well as during the delivery and use of the object of the delivery or service the property rights of third parties are not violated. He exempts VENSYS on first written demand from claims of third parties from possible infringements of property rights.

## **11. Formal Requirements - Applicable Law - Place of Jurisdiction - Supplementary Provisions**

11.1 German law applies to the exclusion of the provisions of private international law and the UN Convention on Contracts for the International Sale of Goods (CISG).

11.2 The exclusive place of jurisdiction is, as far as legally permissible, Neunkirchen; VENSYS is, however, also entitled to sue the CUSTOMER at its place of business.

11.3 Should any provision of these GTCP be or become invalid, this will not affect the validity of the remaining provisions. An invalid provision is to be supplemented or replaced in such a way that the new provision comes as close as possible to the

intended economic purpose. The same applies to a loophole that has become apparent.